

# Committee on Resources

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SUBMITTED TO THE UNITED STATES HOUSE OF REPRESENTATIVES

ENERGY AND MINERAL RESOURCES SUBCOMMITTEE

THE HONORABLE BARBARA CUBIN, CHAIRWOMAN

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Madam Chairwoman and members of the Subcommittee, my name is D. Steven Degenfelder and I am the Vice President of Land for Double Eagle Petroleum Company, an independent oil and gas exploration company located in Casper, Wyoming and with primary operations in the State of Wyoming. I would like to thank the Subcommittee on Energy and Mineral Resources of the Committee on Energy and Commerce for the opportunity to testify at this field hearing regarding "Oil and Gas Development on Federal Lands."

The foundation of this hearing should be to stress to members of Congress, whether they be from energy producing states or energy consuming states, that all studies concerning natural gas reserves point to Wyoming as the focal point of new reserves will be developed. With more than 60% of the minerals in the state being owned by the federal government, it is obvious that impediments to any production on federal lands is going to adversely affect the nation's ability to utilize its own natural resources and have a greater dependence on foreign countries resulting in greater costs and less stability. Basically, if we produce our own natural gas, we control our own destiny.

I would also like to thank the Committee for traveling to Rawlins, Wyoming, and the site of BLM's Rawlins Field Office. It is extremely important for members of Congress to know these field offices are the most critical part of the Department of the Interior. People are disappointed because they don't see much change when a new BLM State Director or Secretary of the Interior is appointed or even when a new President is elected in Washington, D.C. This is because, the Field Office is where policies are interpreted and implemented, not at high management levels.

My company is currently developing a coal bed methane play approximately 25 miles south of Rawlins as well as participating in many wells on the Pinedale Anticline in southwest Wyoming. I would like to emphasize that these two areas primarily produce natural gas and consist of development drilling, not exploratory. We also have one large exploratory project on United States Forest Service (USFS) lands in Utah, which I will address in my testimony.

In every business, the issues basically come down to time and money. If something costs too much or takes too much time, it is replaced by another investment that is better. Today, I would like to focus my comments on five main areas of concern that I feel create or contribute to impediments to oil and gas production on federal lands.

- 1) NEPA Analysis
- 2) Duplication of Permitting and Reporting
- 3) Land Available for Leasing/ Conditions of Approval
- 4) Drilling Permits and Right-of-Way Permits
- 5) Increased Costs

NEPA Analysis:

The biggest impediment to operations on federal lands is the adherence to the National Environmental Policy Act (NEPA). The principles of the Act have been extended beyond their original intent. This process takes an incredible amount of time and is the single reason why more wells are not drilled and consuming states pay more for their energy. The two biggest plays in Wyoming are development in nature versus exploratory. In other words, the location of the gas is known, you just have to drill, produce and ship it to the consumer. However, these areas are where industry is encountering their greatest challenges.

I am not implying I do not want to comply with NEPA. However, I believe BLM and the USFS has become hopeful that by increasing the scope of study in a NEPA document, they will in some way lessen opposition to a project. In most instances, the Agencies do not achieve their goal. Groups opposed to these projects are opposed to any activity. They will never be pleased because they do not want any development to occur. They now use NEPA for their own benefit by creating a quagmire of studies that serves their purpose of at least delaying and increasing costs of a project. An operation on federal land has one of three outcomes, approval, denial or continual study. Industry loses in two out of three of these outcomes. Environmental groups know that to prolong a study by creating endless possibilities and shadows of doubt, they increase the possibility of discouraging an operator and seeing the project cancelled. That's bad for energy consuming states.

To further demonstrate the NEPA process, I would use our small play south of Rawlins as a good example. BLM prepared the NEPA document for our first four wells at the Cow Creek Field and the document was ten pages long. Double Eagle paid for the next NEPA document covering eight wells and that EA was over 150 pages and a bargain at \$30,000. That EA is being appealed by environmental groups so we had to hire an attorney to intervene for another \$10,000 to ensure that BLM would defend the EA with all their resources and protect our rights as well as their own. It is ironic how the same environmental groups did not appeal an EA for 10 wells completed 1 mile east of my project.

A similar situation, which demonstrates that the public process is used to delay a project, occurred when the Wyoming Department of Environmental Quality (DEQ) went through the public hearing process for my NPDES permit to dispose CBM water on the surface. Despite the fact that the same amount and quality of water had been discharged for four years prior to the public hearing of which no one commented. As soon as DEQ said this permit would now include CBM water, these groups including BLM expressed grave concerns. Where were their concerns 4 years prior when the water initially flowed and BLM, Game & Fish and others built a reservoir to catch this well water?

Another problem encountered by oil and gas companies is, having to pay for the NEPA documents, which BLM is actually supposed to do. BLM advises industry that because of time and budget constraints, if we want a decision any time soon we should pay a BLM approved third party contractor to prepare the document. This has been hard for me to explain to my superiors why BLM can't afford to do the NEPA documents in a timely manner, but do have enough staff to send, in some cases, up to 14 people to conduct an on-site inspection when in the past usually 2-4 people have done the inspection.

Since I have serious doubts that any efforts will result in a decrease of NEPA analysis from our present situation, I would simply suggest that Congress strictly order all federal agencies to require and document that all persons and companies using any federal lands operate under exactly the same NEPA process. I am convinced that if everyone in this country had to do what oil and gas companies are required to do, the public would be outraged and a change would finally occur. I can give you several situations, which we see where NEPA analysis is not being fairly implemented. One situation occurred recently on USFS lands in southwest Wyoming where a group was given a use permit through a "categorical exemption" to avoid a lengthy NEPA analysis. The permit would allow up to 20,000 people to camp, drive on and otherwise occupy USFS land. My company and its predecessors have been fighting with the same USFS personnel for 20 years to get a lease issued which carries a No-Surface-Occupancy stipulation, on a 400 acre tract surrounded by 20,000 acres of existing leases. Our NEPA document has been 10 years in the making. A detail I learned just days ago is that the USFS intends to "take over" the reclamation of these lands after an initial period of restoration by this 20,000-person group. Oil and Gas companies are required to complete restoration at their own cost regardless of how long it takes before their bond is released.

I would also like you to require that BLM be a cooperating agency in the preparation of any NEPA document for the USFS since BLM will always be the agency charged with offering an oil and gas lease on USFS lands. This will help to prevent delays we are experiencing right now.

Duplication of Permits and Reporting:

We currently submit applications for permit to drill, which includes information such as surveys, electric logs, completion reports, perforating intervals, pressure testing and other down hole information on wells drilled on BLM lands to both the respective BLM Field Office and the Wyoming Oil and Gas Conservation Commission (OGCC). On private and state wells we only submit this information to the OGCC. Once the information is received by the OGCC, it is kept in paper form and also digitized and available on the Internet. BLM Field Offices have expressed difficulty in having space to store all these paper file copies. I would suggest you designate the OGCC as the central depository for all well information and other records. The OGCC already administers spacing of wells in the state including those on federal land and is greatly respected throughout the nation for its Internet access of well file information.

#### Land Available for Leasing / Conditions of Approval:

First, you should know that the information and testimony you have received in the past hearings about lands "available for leasing" and "lease stipulations" is very inaccurate. This information is usually taken out of context and in a practical manner, does not represent reality.

For example, when you hear testimony saying that only a small percentage of lands are unavailable for leasing, you take the percentages at face value and probably have a hard time arguing in public based solely on the percentages. I encourage you to pay close attention to where these lands may be located with respect to other lands. For example, the attached map of the Table Top Unit shows where we have 98% of the land under lease and a 400-acre tract offsetting our drill site, representing 2% of the lands, has been unavailable for lease. This unavailable tract renders the entire project of 20,000+ acres of leases unavailable for development. This was the determination of the Interior Board of Land Appeals. However, you would just be told that 98% of the lands in this particular area are leased and only 2% are unavailable. Naturally you would question my complaints.

Lease stipulations are another area, which can be manipulated. My company's activities in the Baggs and Pinedale area in Wyoming are taking place on leases which were issued in 1948 and 1951 and mentioned little about timing stipulations or other conditions for operations. These leases would be reported to you as lease with no stipulations or as "standard stipulations". However, once we apply for a drilling permit, the stipulations imposed do not distinguish between a lease that was issued 50 years ago or 5 months ago. Basically, when you buy a lease at the auction, the stipulations on the lease you purchased can and will change depending on what is going on and when you decide to drill. It makes me wonder why BLM spends so much staff time and money determining what stipulations to put on a lease before a tract is offered for sale if the stipulations are bound to increase once someone submits an application to drill. These stipulations are non-negotiable and are supported by an old solicitor's opinion.

Considering the above comments, I would suggest that you direct BLM and USFS personnel, when testifying before Congress about availability of lands for leasing and special leasing stipulations, they also include lands within a five mile "buffer" zone around these lands since those leasing areas within the "buffer" would also be questionable for leasing knowing the circumstances of neighboring lands. This analogy has been used to protect wildlife and historical resources for many years and should give Congress a better prospective on the real figures.

Stipulations are nothing compared to the "conditions of approval" (COA's), which are attached to your drilling permit. The process begins by filing an application for permit to drill with BLM. The application is accompanied by a 4-page drilling plan and 11-page surface use plan. We have a registered surveyor stake the location and have an archeologist conduct a cultural inventory. When BLM approves the drilling permit, in some cases one year later, attached is what is called "conditions of approval", which are additions to the plans you have already submitted. These COA's are non-negotiable and can be appealed only to the State Director and to IBLA. Considering an appeal to IBLA can take up to 3 years for an answer. A company usually just accepts the COA's and goes on with their operation because of the time and money involved with an appeal, which most often doesn't make the decision worth contesting.

#### Drilling Permits and Right-of-Way Permits:

The state OGCC will approve a well permit in 1-2 weeks. BLM can take up to one year depending on the NEPA analysis required. Couple that with the fact that many leases have wildlife stipulations that allow no construction, in some cases, from November 15 to July 31, with a very short window in which to conduct your operation. Couple that with the fact that everyone else is under the same stipulations, it is no wonder

we have a rig shortage each summer. Then, the drilling companies have trouble-finding employees to operate the rigs because they laid those people off last November when things went dead.

Right-of-way permits for access over BLM lands, especially to access a private drill site, has created a great concern because these requests have almost the same NEPA considerations as a well site on federal lands despite its being simply a 30 foot wide roadway. The requirement to conduct cultural and wildlife studies on the private land we are accessing federal lands to get to, stress our relationships with the private landowners, who are not too thrilled to find out we have to do cultural and wildlife studies on their land in order to get our BLM right-of-way.

Authorization for surface water disposal and machinery involving air emissions has been under greater scrutiny. We are required to obtain permits from the Wyoming Department of Environmental Quality (DEQ) for air and water. Despite the DEQ having been given primacy by the Environmental Protection Agency (EPA) to implement the Clean Water Act and Clean Air Act in Wyoming, BLM makes it clear that having a NPDES permit or an air quality waiver does not entitle you to dispose of water on their surface or construct a compressor or generator station site. This is can only be authorized by the Agency through a right-of-way permit or sundry permit, which examines not only the use of the surface but also re-examines some of the environmental basis analyzed by DEQ. I would encourage you to let DEQ authorize these permits and not make a company go through another environmental process with BLM.

#### Increased Costs:

I was amused recently at a conference I attended where an attorney said, "fight 'em" by filling your own lawsuit. What a bunch of baloney. Where is the justification for fighting a 3-year battle at the Interior Board of Land Appeals (IBLA) about wildlife stipulations on my 1948 vintage leases? I am much farther ahead if I take the COA's and get on with my drilling program. I know this perpetuates the problem but companies run on the bottom line. If you don't drill wells you can't produce the product, and if you don't have sales you don't get any money back.

Basically, every time federal agencies increase their requirements it costs more in time and money both for industry and the federal agencies. A few instances, which stand out in my recent operations are:

Ø NEPA documents are now prepared by industry because BLM says they do not have the staff or budget to prepare them in-house. A small EA cost \$50,000+. Large environmental impact studies cost several hundred thousand dollars to over a million dollars before a well is even drilled.

Ø Not receiving drilling permits until late in the year increases costs because days grow shorter and the temperatures drop.

Ø Requiring the graveling of access roads and locations prior to knowing if the well is productive. This has greater impacts to the surface and requires extensive restoration in the event of a dry hole not to mention the additional \$13,000 per mile in costs (Rawlins). One the other hand, BLM's Buffalo Field Office directs operators to use existing two-tract roads and does not require even flat-blade roads.

Ø Requiring right-of-way permits instead of sundries in a federal unit. Federal Units were originally designed to give greater flexibility to the operator. This has not been the case.

Ø Conducting cultural and wildlife surveys on private land drill sites because access is gained across federal lands. A cultural survey for a one-acre drill site and access road typically runs about \$1,500. A three-day black-footed ferret study costs \$10,000. A complete wildlife study on a 100,000+/acre area can run several hundred thousand dollars.

Ø COA's that includes an on-site cultural observer during construction activities to ensure cultural resources are not "buried" even though the cultural survey conducted on the surface on the 40-acre surrounding our one-acre drill site showed no evidence of significant cultural resources on the surface. This costs about \$1,000 per day for each occurrence.

Ø Surface inspection of drill sites by 14 BLM staffers. These wells are permitted to a depth of 1,500 feet and each well will only take 5 days to drill and complete. This is at a time when BLM tells us that they don't have the staff time or budget to do large NEPA analysis in-house. BLM incurs most of the costs associated with the inspections, but we reimburse BLM for costs of right-of-way inspections because of their cost

recovery program.

Ø Strongly encouraging the use of injection wells for disposing of coal bed methane water, destroying its future usefulness as opposed to encouraging surface containment and surface application which is the desire of the grazing lessee and the local conservation districts. Drilling costs of an injection well can exceed \$500,000+. Equipping the well with pumps and tankage can cost another \$250,000. Construction of reservoirs would be much less expensive and a valuable use of the water resource for livestock and wildlife in a region that receives 6-9" of rainfall per year. (Rawlins)

Ø Denying a two and one-half mile pipeline right-of-way to get gas to a sales line because, in BLM's opinion, there was sufficient capacity in existing competing lines, regardless of the transportation costs (Pinedale).

Ø Obtaining an air quality permit for a generator from DEQ and then receiving a COA's that would require housing around the machine to make the noise level of the generator be similar to a vacuum cleaner at the location and not heard 1,600 feet away. BLM later withdrew this COA after we filed a complaint.

Conclusion:

Many of my peers and I have lamented that this is not the business we got into 25 years ago. We do it because it's our profession not because we are having loads of fun. Our industry is also having problems sustaining itself where the attendees at luncheon meetings of landmen, geologists, geophysists or engineers are all over 40 years old. This is the group Congress and the Federal Reserve Chairman are looking at to solve energy needs and speed the nation's economic recovery. One bright spot for us however, is that as these impediments grow, we will realize a greater value for our existing reserves. The opposite is true for consuming states where their costs will continue to grow. We can have good jobs, profitable companies and a reliable source of oil and gas for consumers. I hope you will share my comments with your counterparts from other states, especially the energy consuming states. Thank you again for the opportunity to make these comments.